HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

(DIVISION BENCH)

CORAM : Hon'ble Shri S.R. Nayak, CJ
Hon'ble Shri D.R. Deshmukh, J.

Misc. Appeal No. 253 OF 2005

Appellants

1. Smt. Kewla Bai w/o Late Manohar Das Mahant, age 45 years.
2. Prakash Das Mahant s/o Late Manohar Das Mahant, age 25 years.
3. Sanjay Kumar mahant s/o Late manohar Das Mahant, age 20 years.
4. Deepak Kumar Mahant (Minor) s/o Late Manohar Das Mahant, age 13 years, through Mother & natural guardian Smt. Kewla Bai.

All r/o village Kurumkela, Tehsil Bagicha, Distt. Jashpur, C.G.

Versus

RESPONDENTS
Non-Applicants

1. The New India Insurance Company Ltd. Local Office Raigarh.
(INSURER OF MOTOR CYCLE)
2. Padamnath Singhparihar, s/o Trilok Singh, r/o village Hatwa, Post Baikunthpur, Tehsil Sirmor, Distt. Rewa (M.P.) through Ashwani Kumar Parihar, s/o Padmnath Singh Parihar, Sahayak Gramin Krishi Vistar Adhikari, Bagicha, Distt. Jashpur, C.G.
(OWNER)
3. Prabhat Yadav s/o Dhanurajay Yadav, Occupation-Driver, r/o Jhagarpur, Tehsil & P.S. Bagicha, District Jashpur, C.G.
(DRIVER)
4. National Insurance Company Ltd. Branch Office - 01, Priyadarshini Nagar, Bilaspur, C.G.
(INSURER OF THE TRACTOR)

Present:

Mr.A.K. Prasad, learned counsel for the appellants.

Mr. Ali Asgar, learned counsel for respondent No.1

ORAL ORDER
(Passed on 3rd of January 2006)

The following Order of the Court was passed by

S.R. Nayak, CJ:

The dependents of the deceased not being satisfied with the compensation awarded by the MACT have preferred this appeal seeking more compensation. While attacking the correctness of the impugned award, it was contended by the learned counsel for the appellants that the MACT having taken the age of the deceased on the date of accident as 54 years ought to have applied multiplier 11 instead of applying multiplier 7. It was also contended that the MACT is not justified in not awarding any compensation under the conventional head loss of estate. It was further contended that even compensation awarded towards loss of consortium is on lower side. We find considerable force in the above submissions of the learned counsel for the appellants. The MACT having taken the age of the deceased on the date of accident as 54 years on basis of the postmortem report, in terms of 2nd Schedule ought to have applied multiplier 11 instead of multiplier 7. If we apply multiplier 11, total loss of dependency would come to Rs. 5,01,600/- (Rs.45,600 x 11). We are of the considered opinion that the compensation to be awarded under the conventional head should reflect the time and place and it cannot be static for all the times. In that view of the matter, we award a sum of Rs. 20,000/- towards loss of consortium and Rs.20,000/- towards loss of estate.

(2) In the result and for the foregoing reasons, we allow the appeal in part and in substitution of the impugned award, we award total compensation of Rs.5,46,600/- under the following heads:

(i)	Loss of dependency	Rs. 5,01,600/-
(ii)	Loss of consortium	Rs. 20,000/-
(iii)	Loss of estate	Rs. 20,000/-
(iv)	Funeral expenses	Rs. 5,000/-
	Total	Rs. 5,46,600/-

with interest @ 6% from the date of the claim petition till payment. The insurance company shall deposit the balance compensation before the MACT within a period of six weeks from today and on such deposit being made the MACT shall invest/disburse the compensation money in the same proportions, if any, specified by it in the impugned award. The parties shall bear their respective costs in this appeal.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge